



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

May 3, 2005

Eastern Slopes Inn Associates
Attn: Michael R. Laramis
PO Box 359
North Conway, NH 03860-0359


Re: Docket No. AF 04-065 Motion to Accept Settlement Agreement

Dear Mr. Laramis:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on May 3, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,


COPY
Michael P. Nolin, Commissioner
Legal Assistant

cc: Anthony P. Giunta, PG., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Lynn Woodard, DES WMD
Thomas Beaulieu, DES WMD
Tammy Calligandes, DES WMD

Eastern Slopes Inn Associates
Attn: Michael R. Laramis
P.O. Box 359
North Conway, NH 03860-0359

**ADMINISTRATIVE FINE
No. AF 04-065**

Re: Eastern Slopes, 2760 Main Street
Conway, NH -UST ID# 0-111944

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and Eastern Slopes Inn Associates, parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Eastern Slopes Inn Associates ("Eastern Slopes") is the registered facility owner of one underground storage tank ("UST") system at the Eastern Slopes facility ("the Facility"), further identified as UST # 0111944, located on real property at 2760 Main Street, Conway, NH ("the Property").
3. On September 7, 2004, the Division issued Notice of Proposed Administrative Fine No. AF 04-065 ("the Notice") to Eastern Slopes, seeking fines totaling \$1,400 for violations of New Hampshire Administrative Rule Part Env-Wm 1401 for one Underground Storage Tank ("UST").
4. Specifically, the Notice cited Eastern Slopes for violating Env-Wm 1401.25 (c) and (d) by failing to provide the minimum 5-gallon capacity for the spill containment device and by failing to properly install and maintain overfill protection equipment on the UST system. Pursuant to Env-C 607.05(j) the Division sought a fine of \$200.
5. The Notice further cited Eastern Slopes for violating Env-Wm 1401.31(a) by failing to perform the leak monitoring equipment's annual test for proper operation. Pursuant to Env-C 607.05(d) the Division sought a fine of \$1,000.
6. The Notice further cited Eastern Slopes for violating Env-Wm 1401.32(c) by failing to test the cathodic protection system for the UST within three years of the last test. Pursuant to Env-C 607.04(b) the Division sought a fine of \$200.

7. In order to settle this matter, the Division and Eastern Slopes have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.

8. Of the proposed fine, in the amount of \$1,400, 20% or \$280 shall be suspended due to this being a one-time, unintentional violation. An additional 20% or \$280 shall be suspended due to the Eastern Slopes' cooperation in returning the facility to a compliance status.

9. The suspended portion of the proposed fine, in the amount of \$560 is contingent on Eastern Slopes maintaining the subject facility in compliance with Env-Wm 1401 for a period of two years from the date of execution of this document. If Eastern Slopes fails to maintain compliance during the two-year period the suspended portion of the proposed fine in the amount of \$560 shall become due and payable immediately. If Eastern Slopes maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived.

10. Eastern Slopes agrees to pay the remaining \$840 upon execution of this Agreement by Eastern Slopes.

11. Payment under Paragraph #10, and any payment that becomes due pursuant to Paragraph #9 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

12. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, Department of Environmental Services "(DES") may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

13. By executing this Agreement, Eastern Slopes waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

14. The effective date of this Agreement will be the date on which it is signed by and authorized representative of Eastern Slopes, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

15. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,
Eastern Slopes Inn Associates

Date


April 8, 2005

By: 
Duly Authorized


DES Waste Management Division

Date

4/28/05


Anthony Giunta, Director

This Motion to Accept Settlement agreement is granted this 3rd day of MAY, 2005.


Michael P. Nofin, Commissioner
Department of Environmental Services